

SENATE BILL No. 245

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-27; IC 20-12-21.7-9.1; IC 25-23.5; IC 34-6-2-117.

Synopsis: Licensing of occupational therapists and psychologists. Adds licensed psychologists to the health care professionals regulated under the home health agency statutes. Establishes a licensure program for occupational therapists and grants occupational therapist licensure to previously certified occupational therapists.

Effective: July 1, 2002.

Alting

January 7, 2002, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 245

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-27-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter, "health care professional" means any of the following:

- (1) A licensed physician.
- (2) A licensed dentist.
- (3) A licensed chiropractor.
- (4) A licensed podiatrist.
- (5) A licensed optometrist.
- (6) A nurse licensed under IC 25-23-1.
- (7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.
- (8) A speech language pathologist or an audiologist licensed under IC 25-35.6-3.
- (9) A speech language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
- (10) An:
 - (A) occupational therapist; or



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- 1 (B) occupational therapist assistant;
 2 ~~certified licensed~~ under IC 25-23.5.
 3 (11) A social worker licensed under IC 25-23.6 or a social work
 4 assistant.
 5 (12) A pharmacist licensed under IC 25-26-13.
 6 **(13) A psychologist licensed under IC 25-33.**

7 SECTION 2. IC 16-27-2-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this
 9 chapter, "health care professional" means any of the following:

- 10 (1) A licensed physician or a physician's assistant (as defined in
 11 IC 25-22.5-1-1.1).
 12 (2) A dentist licensed under IC 25-14.
 13 (3) A chiropractor licensed under IC 25-10-1.
 14 (4) A podiatrist licensed under IC 25-29.
 15 (5) An optometrist licensed under IC 25-24.
 16 (6) A nurse licensed under IC 25-23-1.
 17 (7) A physical therapist licensed under IC 25-27 or a physical
 18 therapy assistant certified under IC 25-27.
 19 (8) A speech language pathologist or an audiologist licensed
 20 under IC 25-35.6-3.
 21 (9) A speech language pathology aide or an audiology aide (as
 22 defined in IC 25-35.6-1-2).

- 23 (10) An:
 24 (A) occupational therapist; or
 25 (B) occupational therapist assistant;
 26 ~~certified licensed~~ under IC 25-23.5.
 27 (11) A social worker licensed under IC 25-23.6 or a clinical social
 28 worker licensed under IC 25-23.6.
 29 (12) A pharmacist licensed under IC 25-26-13.
 30 **(13) A psychologist licensed under IC 25-33.**

31 SECTION 3. IC 20-12-21.7-9.1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.1. (a) To initially
 33 qualify for a scholarship from the fund as the fund pertains to
 34 individuals described in section 8(a)(2) of this chapter, an individual
 35 must:

- 36 (1) be admitted to an eligible institution of higher learning as a
 37 full-time student or be attending an eligible institution of higher
 38 learning as a full-time student;
 39 (2) intend to pursue or, in the case of a student who is attending
 40 an eligible institution of higher learning, pursue a course of study
 41 that would enable the student, upon graduation:
 42 (A) to be licensed to teach special education in an accredited

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school under rules adopted by the Indiana state board of education; **or**

(B) to be ~~certified~~ **licensed** to practice occupational therapy

(i) in an accredited school;

(ii) in a vocational rehabilitation center under IC 12-12-1-4(1); or

(iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6; or

~~(C) to be licensed to practice~~ **or** physical therapy:

(i) in an accredited school;

(ii) in a vocational rehabilitation center under IC 12-12-1-4(1); or

(iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

(3) agree, in writing, to:

(A) teach in an accredited school; or

(B) practice occupational therapy or physical therapy, whichever applies:

(i) in an accredited school in Indiana;

(ii) in a vocational rehabilitation center under IC 12-12-1-4(1); or

(iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

at least three (3) of the first five (5) years following the student's licensure as a teacher, ~~certification~~ **licensure** as an occupational therapist, or licensure as a physical therapist; and

(4) meet any other minimum criteria established by the commission.

(b) To qualify for a scholarship renewal from the fund under this section, the individual must:

(1) comply with the criteria set forth in subsection (a); and

(2) maintain at least the cumulative grade point average:

(A) that is required by an eligible institution for admission to the eligible institution's school of education; or

(B) of 2.0 on a 4.0 grading scale or its equivalent as established by the eligible institution if the eligible institution's school of education does not require a certain minimum cumulative grade point average.

SECTION 4. IC 25-23.5-1-0.5 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2002]: **Sec. 0.5. This article does not apply to the following:**

(1) A health care professional acting within the scope of the health care professional's license, certification, or registration.

(2) A student practicing occupational therapy as part of a supervised course of study of an educational program approved by the board. While practicing occupational therapy, a student must wear identification that indicates the student is a student or trainee.

SECTION 5. IC 25-23.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. "Occupational therapy" means the functional assessment of learning and performance skills and the analysis, selection, and adaptation of exercises or equipment for a person whose abilities to perform the requirements of daily living are threatened or impaired by physical injury or disease, mental illness, a developmental deficit, the aging process, or a learning disability. The term consists primarily of the following functions:

(1) Planning and directing exercises and programs to improve sensory-integration and motor functioning at a level of performance neurologically appropriate for a person's stage of development.

(2) Analyzing, selecting, and adapting functional exercises to achieve and maintain a person's optimal functioning in daily living tasks and to prevent further disability. **health profession that uses purposeful therapeutic occupations to evaluate and treat individuals who are at risk for or have a physical impairment, a disease, a disorder, an activity limitation, or a participation restriction that interferes with the individual's ability to function independently in daily living.**

SECTION 6. IC 25-23.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. The committee consists of five (5) members appointed by the governor for terms of three (3) years. The committee must include the following:

(1) At least two (2) occupational therapists who:

(A) are residents of Indiana;

(B) have at least three (3) years experience as occupational therapists; and

(C) are **certified licensed** under this article.

(2) At least one (1) physician licensed under IC 25-22.5 who is familiar with occupational therapy.

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- (3) At least one (1) person who:
- (A) is a resident of Indiana; and
 - (B) is not associated with occupational therapy in any way other than as a consumer.

SECTION 7. IC 25-23.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The committee shall:

- (1) consider the qualifications of persons who apply for ~~certificates~~ **licenses** under this article;
- (2) provide for examinations required under this article;
- (3) ~~certify~~ **license** qualified persons;
- (4) propose rules to the board concerning:
 - (A) the competent practice of occupational therapy; and
 - (B) the administration of this article; and
- (5) recommend to the board the amounts of fees required under this article.

SECTION 8. IC 25-23.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) After considering the committee's proposed rules, the board shall adopt rules under IC 4-22-2 establishing standards for:

- (1) the competent practice of occupational therapy;
- (2) the renewal of ~~certificates~~ **licenses** issued under this article; and
- (3) ~~standards for~~ the administration of this article.

(b) After considering the committee's recommendations for fees, the board shall establish fees under IC 25-1-8-2.

SECTION 9. IC 25-23.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. A person may not:

- (1) ~~profess to be practice as~~ an occupational therapist;
- (2) ~~profess to be practice as~~ an occupational therapy assistant;
- (3) use the title "occupational therapist";
- (4) use the title "occupational therapy assistant"; or
- (5) use the initials "O.T.", "O.T.A.", "O.T.R.", ~~or~~ "C.O.T.A.", "OT/L", or "OTA/L", or any other words, letters, abbreviations, or insignia indicating or implying that the person is an occupational therapist or occupational therapy assistant ~~certified~~ **licensed** under this article;

unless the person is ~~certified~~ **licensed or exempt from the requirement to be licensed** under this article.

SECTION 10. IC 25-23.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. A person who **knowingly** violates this chapter commits a Class B misdemeanor.

SECTION 11. IC 25-23.5-5-1 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. A person who applies for a **certificate license** as an occupational therapist or occupational therapy assistant must present satisfactory evidence to the committee that the person:

- (1) does not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;
- (2) has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the person was not able to practice as an occupational therapist or occupational therapy assistant without endangering the public;
- (3) has graduated from a school or program of occupational therapy or a program for occupational therapy assistants approved by the board; and
- (4) has passed an occupational therapist or occupational therapy assistant licensing or certifying examination approved by the board.

SECTION 12. IC 25-23.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The board may require a person who applies for a **certificate license** as an occupational therapist to have successfully completed supervised fieldwork experience arranged and approved by the school or program from which the person graduated.

(b) The board may require a person who applies for a **certificate license** as an occupational therapy assistant to have successfully completed supervised fieldwork experience arranged and approved by the program from which the person graduated.

SECTION 13. IC 25-23.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A person applying for a **certificate license** under this article must pay a fee.

SECTION 14. IC 25-23.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. The committee shall issue a **certificate license** to a person who:

- (1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and
- (2) is otherwise qualified under this article.

SECTION 15. IC 25-23.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The committee may refuse to issue a **certificate license** or may issue a probationary **certificate license** to a person if:

- (1) the person has been disciplined by an administrative agency in another jurisdiction; and

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(2) the committee determines that the violation for which the person was disciplined has a direct bearing on the person's ability to practice as an occupational therapist or occupational therapy assistant.

SECTION 16. IC 25-23.5-5-8, AS AMENDED BY P.L.32-2000, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) If the committee issues a probationary ~~certificate~~ **license** under section 7 of this chapter, the committee may require the person who holds the ~~certificate~~ **license** to perform one (1) or more of the following conditions:

(1) Report regularly to the committee upon a matter that is the basis for the probation.

(2) Limit practice to areas prescribed by the committee.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary ~~certificate~~ **license** if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 17. IC 25-23.5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) A ~~certificate~~ **license** issued by the committee expires on a date established by the health professions bureau under IC 25-1-5-4 in the next even-numbered year following the year in which the ~~certificate~~ **license** was issued.

(b) A person may renew a ~~certificate~~ **license** by paying a renewal fee on or before the expiration date of the ~~certificate~~ **license**.

(c) If a person fails to pay a renewal on or before the expiration date of a ~~certificate~~ **license**, the ~~certificate~~ **license** becomes invalid.

SECTION 18. IC 25-23.5-5-10, AS AMENDED BY P.L.269-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) The committee shall reinstate an invalid ~~certificate~~ **license** up to three (3) years after the expiration date of the ~~certificate~~ **license** if the person holding the invalid ~~certificate~~ **license** meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a ~~certificate~~ **license** expired, the person holding the ~~certificate~~ **license** may renew the ~~certificate~~ **license** by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

SECTION 19. IC 25-23.5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The committee may issue a temporary permit to a person to profess to be an

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1 occupational therapist or occupational therapy assistant if the person
2 pays a fee and the person:

3 (1) has a valid license or certificate to practice from another state
4 and the person has applied for a ~~certificate~~ **license** from the
5 committee;

6 (2) is practicing in a state that does not license or certify
7 occupational therapists or occupational therapy assistants but is
8 certified by a national occupational therapy association approved
9 by the committee and the person has applied for a ~~certificate~~
10 **license** from the committee; or

11 (3) has been approved by the committee to take the next
12 examination and has graduated from a school or program
13 approved by the committee and the person has completed the
14 fieldwork experience requirement.

15 (b) A person with a temporary permit issued under subsection (a)(3)
16 may profess to be an occupational therapist or an occupational therapy
17 assistant only under the supervision of an occupational therapist
18 ~~certified licensed~~ under this article.

19 (c) A temporary permit expires the earlier of:

20 (1) the date the person holding the permit is issued a ~~certificate~~
21 **license** under this article; or

22 (2) the date the committee disapproves the person's ~~certificate~~
23 **license** application.

24 (d) The committee may renew a temporary permit if the person
25 holding the permit was scheduled to take the next examination and the
26 person:

27 (1) did not take the examination; and

28 (2) shows good cause for not taking the examination.

29 (e) A permit renewed under subsection ~~(e)~~ **(d)** expires on the date
30 the person holding the permit receives the results from the next
31 examination given after the permit was issued.

32 SECTION 20. IC 25-23.5-5-12 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) A person who
34 is ~~certified licensed~~ under this article shall notify the committee in
35 writing when the person retires from practice.

36 (b) Upon receipt of the notice, the committee shall:

37 (1) record the fact the person is retired; and

38 (2) release the person from further payment of renewal fees.

39 SECTION 21. IC 25-23.5-5-13 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) If a person
41 surrenders a ~~certificate~~ **license** to the committee, the committee may
42 reinstate the ~~certificate~~ **license** upon written request by the person.



(b) If the committee reinstates a ~~certificate~~ **license**, the committee may impose conditions on the ~~certificate~~ **license** appropriate to the reinstatement.

(c) A person may not surrender a ~~certificate~~ **license** without written approval by the committee if a disciplinary proceeding under this article is pending against the person.

SECTION 22. IC 25-23.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. A person who applies for a ~~certificate~~ **license** under this article may be exempted by the committee from the examination requirement under section 6 of this chapter if the person:

(1) is licensed or certified to practice as an occupational therapist or occupational therapy assistant in another state; or

(2) is practicing in a state that does not license or certify occupational therapists or occupational therapy assistants and is certified by a national occupational therapy association approved by the board;

and is otherwise qualified under sections 1 through 3 of this chapter and pays an additional fee.

SECTION 23. IC 25-23.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. The committee may issue a ~~certificate~~ **license** to a person who has graduated as an occupational therapist or occupational therapy assistant from an educational program in a foreign country if the person:

(1) graduated from an educational program approved by the board;

(2) does not have a conviction for:

(A) an act that would constitute a ground for a disciplinary sanction under IC 25-1-9; or

(B) a crime that has a direct bearing on the person's ability to practice competently;

(3) has not been the subject of a disciplinary action initiated by a licensing agency of another state or jurisdiction on the ground that the person was not able to practice as an occupational therapist or occupational therapy assistant without endangering the public;

(4) passes the examination required under this chapter; and

(5) pays a fee.

SECTION 24. IC 25-23.5-5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16. A person licensed under this article may perform the following intervention therapies:**

(1) Remediation or restoration of performance abilities that

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are limited due to an impairment in the patient's biological, physiological, psychological, or neurological processes.

(2) Adaptation of task, process, or environment, or the teaching of compensatory techniques, in order to enhance the patient's performance.

(3) Disability prevention methods and techniques that facilitate the development or safe application of performance skills.

(4) Health promotion strategies and practices that enhance a person's performance abilities.

SECTION 25. IC 25-23.5-5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. A person licensed under this article may provide the following services:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work, or productive activities, including instrumental activities of daily living and play and leisure activities.

(2) Evaluating, developing, remediating, or restoring sensorimotor, cognitive, or psychosocial components of performance, excluding the practice of psychology (as defined in IC 25-33-1-2).

(3) Designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices. However, an occupational therapist may not:

(A) diagnose conditions of the eye or prescribe ophthalmic devices, including glasses, contact lenses, and low vision devices; or

(B) prescribe, fabricate, or fit hearing aids.

(4) Adaptation of environments and processes, including the application of ergonomic principles, to enhance a person's performance and safety in daily life roles.

(5) Application of physical agent modalities as an adjunct to or in preparation for engagement in an occupation, if the occupational therapist has had appropriate additional education and training.

(6) Evaluating and providing occupational therapy interventions in collaboration with the client, family, caregiver, or other persons.

(7) Educating the client, family, caregiver, or other person to carry out appropriate nonskilled interventions.



(8) Consulting with groups, organizations, or communities to provide population based services.

SECTION 26. IC 34-6-2-117, AS AMENDED BY P.L.223-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 117. "Professional health care provider", for purposes of IC 34-30-15, means:

- (1) a physician licensed under IC 25-22.5;
- (2) a dentist licensed under IC 25-14;
- (3) a hospital licensed under IC 16-21;
- (4) a podiatrist licensed under IC 25-29;
- (5) a chiropractor licensed under IC 25-10;
- (6) an optometrist licensed under IC 25-24;
- (7) a psychologist licensed under IC 25-33;
- (8) a pharmacist licensed under IC 25-26;
- (9) a health facility licensed under IC 16-28-2;
- (10) a registered or licensed practical nurse licensed under IC 25-23;
- (11) a physical therapist licensed under IC 25-27;
- (12) a home health agency licensed under IC 16-27-1;
- (13) a community mental health center (as defined in IC 12-7-2-38);
- (14) a health care organization whose members, shareholders, or partners are:
 - (A) professional health care providers described in subdivisions (1) through (13);
 - (B) professional corporations comprised of health care professionals (as defined in IC 23-1.5-1-8); or
 - (C) professional health care providers described in subdivisions (1) through (13) and professional corporations comprised of persons described in subdivisions (1) through (13);
- (15) a private psychiatric hospital licensed under IC 12-25;
- (16) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
- (17) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);
- (18) a respiratory care practitioner licensed under IC 25-34.5;
- (19) an occupational therapist ~~certified~~ **licensed** under IC 25-23.5;
- (20) a state institution (as defined in IC 12-7-2-184);
- (21) a clinical social worker who is licensed under



1 IC 25-23.6-5-2;

2 (22) a managed care provider (as defined in IC 12-7-2-127(b));

3 (23) a nonprofit health care organization affiliated with a hospital
4 that is owned or operated by a religious order, whose members are
5 members of that religious order; or

6 (24) a nonprofit health care organization with one (1) or more
7 hospital affiliates.

8 SECTION 27. [EFFECTIVE JULY 1, 2002] **(a) If an individual**
9 **was certified as an occupational therapist on June 30, 2002, under**
10 **IC 25-23.5, before its amendment by this act:**

11 (1) the individual is considered to be licensed as an
12 occupational therapist on July 1, 2002; and

13 (2) the occupational therapy committee, established by
14 IC 25-23.5-2-1, shall issue a license to the individual under
15 IC 25-23.5-5-6, as amended by this act.

16 **(b) Notwithstanding subsection (a), the occupational therapy**
17 **committee and the health professions bureau are:**

18 (1) not required to issue a wall license to a licensed person
19 described in subsection (a); and

20 (2) not required to issue a new pocket license to a licensed
21 person described in subsection (a) until the license renewal
22 period beginning December 1, 2003.

23 **(c) This SECTION expires January 1, 2006.**

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